

Translation

PATENT COOPERATION TREATY

PCT/EP2003/004055



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 02066WO/HB	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/004055	International filing date (day/month/year) 17 April 2003 (17.04.2003)	Priority date (day/month/year) 20 April 2002 (20.04.2002)
International Patent Classification (IPC) or national classification and IPC C09D 5/08		
Applicant CHEMETALL GMBH		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 14 November 2003 (14.11.2003)	Date of completion of this report 25 August 2004 (25.08.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages _____ 1-41 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____ 1-28 _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the drawings:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims		YES
	Claims	1-28	NO
Inventive step (IS)	Claims		YES
	Claims	1-28	NO
Industrial applicability (IA)	Claims	1-28	YES
	Claims		NO

2. Citations and explanations

This report makes reference to the following documents:

D1: WO 96 29372 A (SAVIN ROLAND R) 26 September 1996
(1996-09-26), cited in application

D2: US-A-5 532 025 (SILVERMAN DAVID C ET AL) 2 July
1996 (1996-07-02)

D3: US-A-3 884 705 (BLAIR NOEL D) 20 May 1975 (1975-
05-20)

D4: DE 100 58 118 A (BAYER AG) 29 May 2002 (2002-05-
29)

D5: US-A-4 889 773 (CAMPBELL DONALD H ET AL) 26
December 1989 (1989-12-26)

D6: US 2001/031367 A1 (GILBERT MICHAEL D) 18 October
2001 (2001-10-18)

D1 (page 22, line 30 to page 23, line 21; claims 1, 4 to 6 and 13; examples 1, 2 and 5) discloses the subject matter of claims 1 to 12 and 15 to 28 of the present application. In D1, zinc dust #4 or zinc dust #6 are preferably used. In claim 1 of the application, the specification "0.5 wt.% of the wet coating consists of component A" refers to the wet coating, whereas the percentage specifications for the zinc dust in D1 refer to the cumulative weight of binder and zinc, but not to additional additives. D1 is therefore

prejudicial to novelty.

D2 (column 5, lines 38-55; column 6, lines 24-27; column 7, lines 44-47; claims 1 to 6; examples 1, 2, 5 and 6) discloses the subject matter of claims 1, 13, 14, 27 and 28 of the present application. The present claim 1 of the application claims a mixture A) containing components a), b) (for example, polyaniline) or c); component B (a binder); and component C (a cross-linker or initiator). The wording of claim 1 includes many options, for example, "in particular to a metal substrate", but is not limited thereto by this wording. Every other substrate, coated or not, is also covered by this claim. D2 is therefore prejudicial to novelty.

D3 (column 2, line 19 to column 3, line 51; column 4, lines 5-22; column 4, lines 47-60; column 5, lines 34-36 and lines 56-61; column 6, line 3-6; claims 1 to 10; table 1) discloses the subject matter of claims 1 to 12, 15 to 22 and 24 to 28 of the present application. Small particle sizes in the quantities according to the application are disclosed in particular in column 4, table 1 (zinc dust) and in the claims.

D5 (column 1, line 8 to column 2, line 65; claims 1 to 7; column 5, lines 7-41; examples 26-30; column 3, lines 32-54) discloses the subject matter of claims 1 to 12 and 15 to 28 of the present application. In particular the combination of the examples 4-6 or 26-30 with column 5, lines 15-30 or with claim 4 or 6 is prejudicial to novelty of the claimed subject matter.

D6 (claims 1, 11 to 13, 16, 17 and 19 to 21; page 2, paragraphs 19 and 22; page 5, paragraphs 58 and 61) discloses the subject matter of claims 1, 13, 14, 27 and

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28 of the present application.

It should be noted that coatings of the prior art which are not disclosed in conjunction with welding processes, but have all the essential product features of the claimed coatings, are also prejudicial to novelty.

The present claims 1 to 28 therefore lack novelty (PCT Article 33(2)).

Furthermore, the following objections with regard to the lack of clarity (PCT Article 6) of the claims are made:

Lines 12 to 15 of claim 1 do not state in an unambiguous and clear manner which embodiments are excluded from the claim.

The phrase "free or substantially free of" does not clearly describe the method claimed in claim 24.

The terms "hard, soft, very soft" in the claims are not clearly defined distinguishing technical features.